

JUDGE PAULEY

13 CIV 7466

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK----- X  
MICROSOFT CORPORATION,  
A Washington corporation

Plaintiffs,

v.

LIQUID 8 TECHNOLOGY INC,  
a New York corporation; and  
RICHARD P. GREENE, an individual,Defendant.  
----- X

INDEX NO.

COMPLAINT

OCT 23 2013  
U.S.D.C. S.D. N.Y.  
CASHIERS

1. Microsoft Corporation ("Microsoft") brings this action against Defendants Liquid 8 Technology Inc., a New York corporation, and Richard P. Greene, an individual ("Defendants") alleging that they engaged in copyright and trademark infringement; false designation of origin, false description and representation; and unfair competition. Microsoft seeks damages, the imposition of a constructive trust upon Defendants' illegal profits, and injunctive relief.

**PARTIES**

2. Microsoft is a Washington corporation with its principal place of business located in Redmond, Washington. Microsoft develops, markets, distributes and licenses computer software.

3. Upon information and belief, defendant Liquid 8 Technology Inc. ("Liquid 8 Technology") is a New York corporation with a place of business located in New York, New York. Liquid 8 Technology is engaged in the business of advertising, marketing, installing, offering, and distributing computer hardware and software, including purported Microsoft software.

4. Upon information and belief, defendant Richard P. Greene, an individual, owns, operates, does business as and/or otherwise controls Liquid 8 Technology. Upon information and belief, Richard P. Greene resides and transacts substantial business in this district. Upon information and belief, Richard P. Greene (a) personally participated in and/or (b) had the right and ability to supervise, direct and control the wrongful conduct alleged in this Complaint, and (c) derived direct financial benefit from that wrongful conduct.

#### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction over Microsoft's claims for trademark infringement, copyright infringement and related claims pursuant to 15 U.S.C. § 1121, 17 U.S.C. § 501, 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has supplemental jurisdiction over Microsoft's claims arising under the laws of New York pursuant to 28 U.S.C. § 1367(a) because these claims are so related to Microsoft's claims under federal law that they form part of the same case or controversy and derive from a common nucleus of operative fact.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and § 1400(a) because (a) a substantial part of the events giving rise to Microsoft's claims occurred in the Southern District of New York, (b) Defendants reside in the Southern District of New York for the purposes of determining venue, and/or (c) Defendants have a sufficient connection with the Southern District of New York to make venue proper in this district, all as alleged in this Complaint.

#### **FACTS COMMON TO ALL CLAIMS**

8. Microsoft develops, advertises, markets, distributes, and licenses a number of computer software programs. Microsoft's software programs are recorded on discs, and they are packaged and distributed together with associated proprietary materials such as user's guides, user's manuals, end user license agreements, and other components.

9. Microsoft Windows XP: Microsoft developed, advertised, marketed, distributed, and licenses a software package known as Microsoft Windows XP Professional (“Windows XP”). Windows XP is an operating system for desktop and laptop systems. It performs a number of computer-related operations including, but not limited to, providing support for various applications and allowing remote access to data and applications stored on Windows XP desktops from network connections. Microsoft holds a valid copyright in Windows XP (including user’s reference manuals, user’s guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Registration Certificate for Microsoft Windows XP, bearing the number TX 5-407-055, is attached hereto as Exhibit 1 and is incorporated by reference.

10. Microsoft Windows Vista: Microsoft has also developed, advertised, marketed, distributed, and licenses software packages known as Microsoft Windows Vista (“Windows Vista”). Windows Vista is an operating system for desktop and laptop systems. It performs a number of computer-related operations including, but not limited to, providing support for various applications and allowing remote access to data and applications stored in Windows Vista desktops from network connections. Microsoft holds a valid copyright in Windows Vista (including user’s reference manuals, user’s guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Registration Certificate for Microsoft Windows Vista, bearing the number TX-6-508-905 is attached hereto as Exhibit 2 and is incorporated by reference.

11. Microsoft has also duly and properly registered a number of trademarks and a service mark in the United States Patent and Trademark Office on the Principal Register, including, but not limited to:

- a. “MICROSOFT,” Trademark and Service Mark Registration No. 1,200,236, for computer programs and computer programming services;
- b. “MICROSOFT,” Trademark Registration No. 1,256,083, for computer hardware and software manuals, newsletters, and computer documentation;

c. WINDOWS, Trademark Registration No. 1,872,264 for computer programs and manuals sold as a unit; and

d. COLORED FLAG DESIGN, Trademark Registration No. 2,744,843, for computer software;

True and correct copies of the Trademark Registrations for a through d above are attached hereto as Exhibits 3 through 6, respectively, and are incorporated by reference.

### **DEFENDANTS' INFRINGEMENT**

12. Defendants advertised, marketed, installed, offered and distributed unauthorized copies of Microsoft software after Microsoft warned them of the consequences of infringing Microsoft's copyrights, trademarks and/or service mark.

13. On information and belief, Defendants advertise that they sell computers pre-installed with Microsoft software. In the advertisements, Defendants misappropriate and/or infringe Microsoft's copyrights, advertising ideas, style of doing business, slogans, trademarks and/or service mark.

14. The computers sold by Defendants actually have infringing copies of Microsoft software installed.

15. In or about February 2013, Defendants distributed computer systems with unauthorized and infringing copies of Windows XP installed to an investigator.

16. By letter dated April 9, 2013, Microsoft asked Defendants to cease and desist from distributing unauthorized copies of Microsoft software programs. Microsoft also informed Defendants of the consequences of such infringement.

17. Nevertheless, in or about June 2013, Defendants distributed computer systems with unauthorized and infringing copies of Windows Vista installed to an investigator.

18. On information and belief, these are not isolated incidents. Rather, Defendants have been and continue to be involved in advertising, marketing, installing, offering, and/or distributing counterfeit and infringing copies of Microsoft's software and/or related components to unidentified persons or entities.

19. On information and belief, Defendants have committed and are continuing to commit acts of copyright and trademark infringement against Microsoft. On information and belief, at a minimum, Defendants were willfully blind and acted in reckless disregard of Microsoft's registered copyrights, trademarks and service marks.

20. On information and belief, Microsoft has been harmed by Defendants' advertising activities, including the unauthorized use of Microsoft's copyright protected material, and the unauthorized use of Microsoft's marks to describe the items that Defendants are distributing.

**First Claim**

**(Copyright Infringement)**

21. Microsoft repeats and incorporates by this reference each and every allegation set forth in paragraphs 1 through 20, inclusive.

22. Microsoft is the sole owner of Microsoft Windows XP and Microsoft Windows Vista and of the corresponding copyrights and Certificates of Registration.

23. Defendants have infringed the copyrights in Microsoft's software, including but not limited Microsoft Windows XP and Microsoft Windows Vista, by advertising, marketing, installing, offering, and/or distributing infringing materials in the United States of America without approval or authorization from Microsoft.

24. At a minimum, Defendants acted with willful blindness to and in reckless disregard of Microsoft's registered copyrights.

25. As a result of the wrongful conduct, Defendants are liable to Microsoft for copyright infringement. 17 U.S.C. § 501. Microsoft has suffered damages. Microsoft is entitled to recover damages, which include any and all profits Defendants have made as a result of the wrongful conduct. 17 U.S.C. § 504. Alternatively, Microsoft is entitled to statutory damages under 17 U.S.C. § 504(c).

26. In addition, for the reasons set forth above, the award of statutory damages should be enhanced in accordance with 17 U.S.C. § 504(c)(2).

27. Microsoft is also entitled to injunctive relief pursuant to 17 U.S.C. § 502 and to an order impounding any and all infringing materials pursuant to 17 U.S.C. § 503. Microsoft has no adequate remedy at law for Defendants' wrongful conduct because, among other things, (a) Microsoft's copyrights are unique and valuable property which have no readily determinable market value, (b) Defendants' infringement harms Microsoft such that Microsoft could not be made whole by any monetary award, and (c) Defendants' wrongful conduct, and the resulting damage to Microsoft, is continuing.

28. Microsoft is also entitled to recover its attorneys' fees and costs of suit. 17 U.S.C. § 505.

**Second Claim**  
**(Trademark Infringement)**

29. Microsoft repeats and incorporates by this reference each and every allegation set forth in paragraphs 1 through 28, inclusive.

30. Defendants' activities constitute infringement of Microsoft's federally registered trademarks and service mark in violation of the Lanham Trademark Act, including but not limited to 15 U.S.C. § 1114(1).

31. Because Microsoft advertises, markets, distributes, and licenses its software under the trademarks and service mark described in this Complaint, these trademarks and service mark are the means by which Microsoft's software is distinguished from the software and related items of others in the same or related fields.

32. Because of Microsoft's long, continuous, and exclusive use of these trademarks and service mark, they have come to mean, and are understood by customers, end users, and the public to signify, software programs or services of Microsoft.

33. The infringing materials that Defendants have and are continuing to advertise, market, install, offer, and distribute are likely to cause confusion, mistake, or deception as to their source, origin, or authenticity.



34. Further, Defendants' activities are likely to lead the public to conclude, incorrectly, that the infringing materials that Defendants are advertising, marketing, installing, offering, and/or distributing originate with or are authorized by Microsoft, to the damage and harm of Microsoft, its licensees, and the public.

35. Upon information and belief, Defendants advertised, marketed, installed, offered or distributed infringing material with the purposes of misleading or confusing customers and the public as to the origin and authenticity of the infringing materials and of trading upon Microsoft's business reputation.

36. At a minimum, Defendants acted with willful blindness to and in reckless disregard of Microsoft's registered marks.

37. As a result of the wrongful conduct, Defendants are liable to Microsoft for trademark infringement. 15 U.S.C. § 1114(1). Microsoft has suffered damages. Microsoft is entitled to recover damages, which include any and all profits Defendants have made as a result of the wrongful conduct. 15 U.S.C. § 1117(a).

38. In addition, because Defendants' infringement of Microsoft's trademarks and service mark as described above was willful, the award of actual damages and profits should be trebled pursuant to 15 U.S.C. §1117(b). Alternatively, Microsoft is entitled to statutory damages under 15 U.S.C. § 1117(c).

39. Microsoft is also entitled to injunctive relief pursuant to 15 U.S.C. § 1116(a) and to an order compelling the impounding of all infringing materials advertised, marketed, installed, offered or distributed by Defendants pursuant to 15 U.S.C. § 1116, subsections (a) and (d)(1)(A). Microsoft has no adequate remedy at law for Defendants' wrongful conduct because, among other things, (a) Microsoft's trademarks and service mark are unique and valuable property which have no readily determinable market value, (b) Defendants' infringement constitutes harm to Microsoft such that Microsoft could not be made whole by any monetary award, (c) if Defendants' wrongful conduct is allowed to continue, the public is likely to become further confused, mistaken, or deceived as to the source, origin or authenticity of the infringing

materials, and (d) Defendants' wrongful conduct, and the resulting damage to Microsoft, is continuing.

40. Microsoft is also entitled to recover its attorneys' fees and costs of suit. 15 U.S.C. § 1117.

### **Third Claim**

#### **(False Designation Of Origin, False Description, And False Representation Of Microsoft Packaging)**

41. Microsoft repeats and incorporates by this reference each and every allegation set forth in paragraphs 1 through 40, inclusive.

42. Because Microsoft advertises, markets, distributes, and licenses its software under the trademarks and service mark described in this Complaint, these trademarks and service mark are the means by which Microsoft's software is distinguished from the software or products of others in the same field or related fields.

43. Because of Microsoft's long, continuous, and exclusive use of these trademarks and service mark, they have come to mean, and are understood by customers, end users, and the public to signify, software or services of Microsoft.

44. Microsoft has also designed distinctive and aesthetically pleasing displays, logos, icons, graphic images, and packaging (collectively, "Microsoft visual designs") for its software programs.

45. Defendants' wrongful conduct includes the use of Microsoft's marks, name, and/or imitation visual designs, specific displays, logos, icons, graphic designs, and/or packaging virtually indistinguishable from Microsoft visual designs, in connection with their goods and services.

46. Upon information and belief, Defendants engaged in such wrongful conduct with the purpose of misleading or confusing customers and the public as to the origin and authenticity of the goods and services advertised, marketed, installed, offered or distributed in connection with Microsoft's marks, name, and imitation visual designs, and of trading upon Microsoft's



goodwill and business reputation. Defendants' conduct constitutes (a) false designation of origin, (b) false or misleading description, and (c) false or misleading representation that the imitation visual images originate from or are authorized by Microsoft, all in violation of § 43(a) of the Lanham Trademark Act, set forth at 15 U.S.C. § 1125(a).

47. Defendants' wrongful conduct is likely to continue unless restrained and enjoined.

48. As a result of Defendants' wrongful conduct, Microsoft has suffered and will continue to suffer damages. Microsoft is entitled to injunctive relief and to an order compelling the impounding of all imitation marks and visual designs being used, advertised, marketed, installed, offered or distributed by Defendants. Microsoft has no adequate remedy at law for Defendants' wrongful conduct because, among other things, (a) Microsoft's marks, name and visual designs are unique and valuable property which have no readily-determinable market value, (b) Defendants' advertising, marketing, installation, or distribution of imitation visual designs constitutes harm to Microsoft such that Microsoft could not be made whole by any monetary award, and (c) Defendants' wrongful conduct, and the resulting damage to Microsoft, is continuing.

#### **Fourth Claim**

##### **(New York Common Law Unfair Competition)**

49. Microsoft realleges and incorporates by this reference each and every allegation set forth in paragraphs 1 through 48, inclusive.

50. Defendants' activities are likely to confuse the public into believing that the items being offered or distributed by Defendants are sponsored, approved or authorized by Microsoft in violation of Microsoft's rights in its trademarks, service mark and logos under the common law of unfair competition of the State of New York.

51. Defendants have exhibited intent and/or bad faith in continuing their conduct.

52. Defendants' activities as alleged constitute unfair competition pursuant to the common law of the State of New York.

53. Defendants' activities as alleged above have damaged and will continue to damage Microsoft and have resulted in an illicit gain of profit to Defendants in an amount that is unknown at the present time.

**Fifth Claim**

**(For Imposition Of A Constructive Trust Upon Illegal Profits)**

54. Microsoft repeats and incorporates by this reference each and every allegation set forth in paragraphs 1 through 53, inclusive.

55. Defendants' conduct constitutes deceptive and wrongful conduct in the nature of passing off the infringing materials as genuine Microsoft software or related components approved or authorized by Microsoft.

56. By virtue of Defendants' wrongful conduct, Defendants have illegally received money and profits that rightfully belong to Microsoft.

57. Upon information and belief, Defendants hold the illegally received money and profits in the form of bank accounts, real property, or personal property that can be located and traced.

58. Defendants hold the money and profits they have illegally received as a constructive trustee for the benefit of Microsoft.

**PRAYER FOR RELIEF**

WHEREFORE, Microsoft respectfully requests judgment as follows:

1. That the Court enter a judgment against Defendants as indicated below:
  - a. that Defendants have infringed Microsoft's rights in the following federally registered copyrights, in violation of 17 U.S.C. § 501:
    - (i) TX 5-407-055 ("Windows XP"); and
    - (ii) TX-6-508-905 ("Windows Vista");
  - b. that Defendants have infringed Microsoft's rights in the following federally registered trademarks and service mark, in violation of 15 U.S.C. § 1114:
    - (i) 1,200,236 ("MICROSOFT");

- (ii) 1,256,083 ("MICROSOFT");
- (iii) 1,872,264 ("WINDOWS"); and
- (iv) 2,744,843 (COLORED FLAG DESIGN);

c. that the infringement described in 1(a) and 1(b) was committed, at a minimum, with willful blindness and/or reckless disregard;

d. that Defendants have committed and are committing acts of false designation of origin, false or misleading description of fact, and false or misleading representation against Microsoft, in violation of 15 U.S.C. § 1125(a);

e. that Defendants engaged in unfair methods of competition in violation of New York common law; and

f. that Defendants have otherwise injured the business reputation and business of Microsoft by the acts and conduct set forth in this Complaint.

2. That the Court issue injunctive relief against Defendants, and that Defendants, any directors, principals, officers, agents, representatives, servants, employees, attorneys, successors and assigns, and all others in active concert or participation with Defendants, be enjoined and restrained from:

a. imitating, copying, or making any other infringing use or infringing distribution of the software programs, components, end user license agreements ("EULA"), certificates of authenticity ("COAs") and/or items protected by the following copyright Certificate Registration Nos.:

- (i) TX 5-407-055 ("Windows XP"); and
- (ii) TX-6-508-905 ("Windows Vista");

or the software programs, components and/or items protected by Microsoft's registered trademarks and service mark, including, but not limited to, the following Trademark Registration Nos.:

- (i) 1,200,236 ("MICROSOFT");
- (ii) 1,256,083 ("MICROSOFT");

(iii) 1,872,264 (“WINDOWS”); and

(iv) 2,744,843 (COLORED FLAG DESIGN);

and any other items or works now or hereafter protected by any Microsoft trademark or copyright;

b. manufacturing, assembling, producing, distributing, offering for distribution, circulating, selling, offering for sale, advertising, importing, promoting, or displaying any software program, component, EULA, COA and/or item bearing any simulation, reproduction, counterfeit, copy, or colorable imitation of any of Microsoft’s registered trademarks, service mark, or copyrights, including, but not limited to, the Trademark, Service Mark, and Copyright Registration Numbers listed in Sections (2)(a) above;

c. using any simulation, reproduction, counterfeit, copy, or colorable imitation of Microsoft’s registered trademarks, service mark, or copyright including, but not limited to the Trademark, Service Mark, and Copyright Registration Numbers listed in Section (2)(a) above, in connection with the manufacture, assembly, production, distribution, offering for distribution, circulation, sale, offering for sale, import, advertisement, promotion, or display of any software program, component, EULA, COA, and/or item not authorized or licensed by Microsoft;

d. using any false designation of origin or false or misleading description or false or misleading representation that can or is likely to lead the trade or public or individuals erroneously to believe that any software program, component, and/or item has been manufactured, assembled, produced, distributed, offered for distribution, circulation, sold, offered for sale, imported, advertised, promoted, displayed, licensed, sponsored, approved, or authorized by or for Microsoft, when such is not true in fact;

e. engaging in any other activity constituting an infringement of any of Microsoft’s trademarks, service mark and/or copyrights, or of Microsoft’s rights in, or right to use or to exploit, these trademarks, service mark, and/or copyrights; and

f. assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs (a) through (e) above.

3. That the Court enter an order pursuant to 15 U.S.C. § 1116(a)(d)(1)(A) and 17 U.S.C. § 503 impounding all counterfeit and infringing copies of purported Microsoft software and/or materials bearing any of Microsoft's trademarks or service mark, and any related item, including business records, that is in Defendants' possession or under their control;

4. That the Court enter an order declaring that Defendants hold in trust, as a constructive trustees for the benefit of Microsoft, the illegal profits obtained from their distribution of counterfeit and infringing copies of Microsoft's software, and requiring Defendants to provide Microsoft a full and complete accounting of all amounts due and owing to Microsoft as a result of Defendants' illegal activities.

5. That the Court order Defendants to pay Microsoft's general, special, actual, and statutory damages as follows:

a. Microsoft's damages and Defendants' profits pursuant to 17 U.S.C. § 504(b), or alternatively, enhanced statutory damages pursuant to 17 U.S.C. § 504(c), and 17 U.S.C. § 504(c)(2), for Defendants' infringement of Microsoft's copyrights;

b. Microsoft's damages and Defendants' profits pursuant to 15 U.S.C. § 1117(a), trebled pursuant to 15 U.S.C. § 1117(b) for Defendants' violation of Microsoft's registered trademarks and service mark, or in the alternative, statutory damages pursuant to 15 U.S.C. § 1117(c) for each counterfeit mark; and

c. Microsoft's damages pursuant to New York common law;

6. That the Court order Defendants to pay to Microsoft both the costs of this action and the reasonable attorneys' fees incurred by it in prosecuting this action; and

7. That the Court grant to Microsoft such other and additional relief as is just and proper.

Dated: New York, New York.  
October 22, 2013

Respectfully submitted,

Perkins Coie LLP  
30 Rockefeller Center, 22th Floor  
New York, NY 10112-0085  
212.262.6900

By: 

Shan A. Haider  
Perkins Coie LLP  
30 Rockefeller Plaza, 22nd Floor  
New York, New York 10012-0085  
212-262-6900  
shaider@perkinscoie.com

*Attorneys for Microsoft Corporation, a  
Washington Corporation*



## **EXHIBIT 1**

08/03/02 MON 13:45 PAA 4600011111

## CERTIFICATE OF REGISTRATION



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*  
REGISTER OF COPYRIGHTS  
United States of America

FORM TX

For a Non-dramatic Literary Work  
UNITED STATES COPYRIGHT OFFICE

TX 5-407-055



EFFECTIVE DATE OF REGISTRATION

Nov. 6, 2001

Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1

## TITLE OF THIS WORK

Microsoft Windows XP Professional

## PREVIOUS OR ALTERNATIVE TITLES

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work

If published in a periodical or serial give Volume Number Issue Date On Page

2

## NAME OF AUTHOR

a Microsoft Corporation

Was this contribution to the work a

☒ Yes☐ No

## AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of

Domiciled in

## DATES OF BIRTH AND DEATH

Year Born

Year Died

## WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ NoPseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

## NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instruction 10). For any part of the work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed.

## NAME OF AUTHOR

Was this contribution to the work a

☐ Yes☐ No

## AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of

Domiciled in

## DATES OF BIRTH AND DEATH

Year Born

Year Died

## WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ NoPseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed.

## NAME OF AUTHOR

Was this contribution to the work a

☐ Yes☐ No

## AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of

Domiciled in

## DATES OF BIRTH AND DEATH

Year Born

Year Died

## WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ NoPseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed.

3

## YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

2001

This information must be given in all cases.

## DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if your work has been published.

Month 10

Day 26

Year 2001

U.S.A.

Notes

4

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2.

Microsoft Corporation  
Law and Corporate Affairs  
One Microsoft Way  
Redmond, WA 98052

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright.

## APPLICATION RECEIVED

NOV 06 2001

## ONE DEPOSIT RECEIVED

## TWO DEPOSITS RECEIVED

NOV 06 2001

## FUNDS RECEIVED

## MORE ON BACK

- Complete all applicable spaces (numbers 1-5) on the reverse side of this page.
- See detailed instructions.
- Sign the bottom of this page.

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Page 1 of 2 pages

08/03/02 MON 10:40 AM

EXAMINED BY

FORM TX

CHECKED BY

CORRESPONDENCE

☐ YesFOR  
COPYRIGHT  
OFFICE  
USE  
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET..

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office? 5☒ Yes ☐ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ☐a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by the author as copyright claimant.c. ☐ This is a changed version of the work, as shown by space 8 on this application.If your answer is "Yes," give: Previous Registration Number ☐Year of Registration ☐

TX 5-038-257

## DERIVATIVE WORK OR COMPILATION

Presenting Material Identify any presenting work or works that this work is based on or incorporates. 6

a. Previous version &amp; files copyrighted by various third parties

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ☐ Additional programming text, additional written text, and editorial revisionsDEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account. 7

a. Microsoft Corporation

DAO63819

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ☐b. Microsoft Corporation, ATTN: Judy Weston  
One Microsoft Way  
Redmond, WA 98062Area code and daytime telephone number ☐ (425) 936-9104Fax number ☐ (425) 936-7329E-mail ☐ judywu@microsoft.com

CERTIFICATION I, the undersigned, hereby certify that I am the

Check only one ☐☐ author☐ other copyright claimant☐ owner of exclusive rights (s)


of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

☒ authorized agent of Microsoft Corporation

Name of author or other copyright claimant, or owner of exclusive rights (s)

Typed or printed name and date ☐ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Judy K.K. Weston

Date ☐ November 5, 2001The filing fee of \$20.00 is effective through June 30, 1999. After that date, please write the Copyright Office, check the Copyright Office Website at <http://www.loc.gov/copyright/>, or call (202) 707-2080 for the latest fee information.

Mail certificate to:

Certificate will be mailed in window envelope

Name ☐ Microsoft Corporation, ATTN: Judy Weston  
Law and Corporate AffairsHome address ☐ One Microsoft WayCity/State/ZIP ☐ Redmond, WA 98062

## FOR FILER

• Complete all mandatory forms

• Sign your application in ink

• Submit to the Copyright Office

• Pay the filing fee

1. Application form

2. Searchable filing fee in check or money order

3. Deposit material

4. Copyright fee

5. Copyright Office

101 Independence Avenue, S.E.

Washington, D.C. 20540-4500

U.S. GOVERNMENT PRINTING OFFICE: 1996-004-5700-000

October 1996-03,000

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## **EXHIBIT 2**

## Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*

Register of Copyrights, United States of America

## FORM TX

For a Nondramatic Literary Work  
UNITED STATES COPYRIGHT OFFICE

TX 6-500-905



EFFECTIVE DATE OF REGISTRATION

FEB. 14, 2007

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1

## TITLE OF THIS WORK ▼

Windows Vista Ultimate

## PREVIOUS OR ALTERNATIVE TITLES ▼

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

2

## NAME OF AUTHOR ▼

a Microsoft Corporation

Was this contribution to the work a "work made for hire"? ☒ Yes ☐ No

## AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of ▼

OR Domiciled in: \_\_\_\_\_

## DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

## WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No

Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

## NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

## NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

Entire work - computer software program, documentation & text on product packaging

## NAME OF AUTHOR ▼

b

Was this contribution to the work a "work made for hire"? ☐ Yes ☐ No

## AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of ▼

OR Domiciled in: \_\_\_\_\_

## DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

## WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No

Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

## NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

## NAME OF AUTHOR ▼

c

Was this contribution to the work a "work made for hire"? ☐ Yes ☐ No

## AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of ▼

OR Domiciled in: \_\_\_\_\_

## DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

## WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No

Pseudonymous? ☐ Yes ☐ No

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## NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

3

## YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

2006

This information must be given in all cases.

## DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if this work has been published.

Month: JANUARY

Day: 31

Year: 2007

U.S.A.

4

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼ Microsoft Corporation

Legal and Corporate Affairs

One Microsoft Way

Redmond WA 98052

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Page 1 of 2 pages

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If your answer is "Yes," give: Previous Registration Number

TX 5-811-026

Year of Registration

2003

## DERIVATIVE WORK OR COMPIATION

Preexisting Material Identify any preexisting work or works that this work is based on or incorporates.

a. Previous version &amp; files copyrighted by various third parties

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed.

Additional programming test, additional written text and editorial revisions

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name

a. Microsoft Corporation

Account Number

DAO63619

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt./City/State/ZIP

b. Microsoft Corporation, ATTN: Judy Weston

One Microsoft Way

Redmond, WA 98052

Area code and daytime telephone number (425) 708-8104

Fax number (425) 936-7329

E-mail judywe@microsoft.com

CERTIFICATION I, the undersigned, hereby certify that I am the

Check only one

☐ author☐ other copyright claimant☐ owner of exclusive rights☒ authorized agent of Microsoft Corporation

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of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date If this application gives a date of publication in space 8, do not sign and submit it before that date.

Judy K.K. Weston

Date 2.12.07

Handwritten signature (X)

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Name Microsoft Corporation, ATTN: Judy Weston  
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Number/Street/Apt. One Microsoft Way

City/State/ZIP Redmond, WA 98052

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2. Nonreturnable, bring fee in check or money order payable to Register of Copyrights  
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Library of Congress  
Copyright Office  
101 Independence Avenue, S.E.  
Washington, D.C. 20540-4000

\*17 U.S.C. § 506(c): Any person who knowingly makes a false representation of a material fact in his application for copyright registration provided for by section 408, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

December 1999-25,000

U.S. GOVERNMENT PRINTING OFFICE: 1998-454-878/0,050

U.S. GOVERNMENT PRINTING OFFICE: 1998-454-878/0,050



## **EXHIBIT 3**

Int. Cls.: 9 and 42

Prior U.S. Cls.: 26, 38 and 101

United States Patent and Trademark Office

Reg. No. 1,200,236  
Registered Jul. 6, 1982

TRADEMARK  
SERVICE MARK  
Principal Register

MICROSOFT

Microsoft (partnership)  
Suite 819  
10800 NE. 8th  
Bellevue, Wash. 98004

VICES, in CLASS 42 (U.S. Cl. 101).

First use Nov. 12, 1975; in commerce Nov. 12, 1975.

For: COMPUTER PROGRAMS, in CLASS 9  
(U.S. Cls. 26 and 38).

Ser. No. 236,080, filed Oct. 22, 1979.

First use Nov. 12, 1975; in commerce Nov. 12, 1975.

B. H. VERTIZ, Primary Examiner

For: COMPUTER PROGRAMMING SER-

CHERYL LYNNE HENDERSON, Examiner

Certificate of Correction

Registered July 6, 1982

Registration No. 1,200,236

Microsoft Corporation, by change of name and assignment from Microsoft

It is hereby certified that the above identified registration is in error requiring correction as follows:

In the statement, column 1, before line 1, *Microsoft Corporation (Washington corporation), 10700 Northup Way, Bellevue, Wash. 98004, by change of name and assignment from* should be inserted.

The said registration should be read as corrected above.

Signed and sealed this 3rd day of April 1984.



Attest:

*Michael E. Smith*

*Paul H. Vertiz*

## **EXHIBIT 4**

Int. Cl.: 16

Prior U.S. Cl.: 38

**United States Patent and Trademark Office**

**Reg. No. 1,256,083**

**Registered Nov. 1, 1983**

**TRADEMARK**

**Principal Register**

**MICROSOFT**

Microsoft Corporation (Washington corporation)  
10700 Northup Way  
Bellevue, Wash. 98004

For: COMPUTER HARDWARE AND SOFTWARE MANUALS; NEWSLETTER FEATURING INFORMATION ABOUT COMPUTER HARDWARE AND SOFTWARE AND GENERAL INFORMATION RELATING TO COMPUTERS FOR MANUFACTURERS, DISTRIBUTORS, AND USERS OF COMPUTERS AND COMPUTER SOFTWARE; AND COMPUTER DOCUMENTATION—NAMELY, REFERENCE, USER, INSTRUCTIONAL, AND GENERAL UTILITIES MANUALS AND DATA SHEETS FOR COMPUTER HARDWARE AND SOFTWARE USERS, in CLASS 16 (U.S. Cl. 38).

First use Nov. 1975; in commerce Nov. 1975.

Ser. No. 373,992, filed Jul. 12, 1982.

J. H. WEBB, Examining Attorney

## **EXHIBIT 5**

Int. Cl.: 9

Prior U.S. Cl.: 38

**United States Patent and Trademark Office** Reg. No. 1,872,264  
Registered Jan. 10, 1995

**TRADEMARK  
PRINCIPAL REGISTER**

**WINDOWS**

MICROSOFT CORPORATION (DELAWARE  
CORPORATION)  
ONE MICROSOFT WAY  
REDMOND, WA 980526399

FIRST USE 10-18-1983; IN COMMERCE  
10-18-1983.

SEC. 2(F).

FOR: COMPUTER PROGRAMS AND MANU-  
ALS SOLD AS A UNIT; NAMELY, GRAPHICAL  
OPERATING ENVIRONMENT PROGRAMS  
FOR MICROCOMPUTERS, IN CLASS 9 (U.S.  
CL. 38).

SER. NO. 74-090,419, FILED 8-20-1990.

ESTHER BELENKER, EXAMINING ATTOR-  
NEY



## **EXHIBIT 6**

Int. Cl.: 9

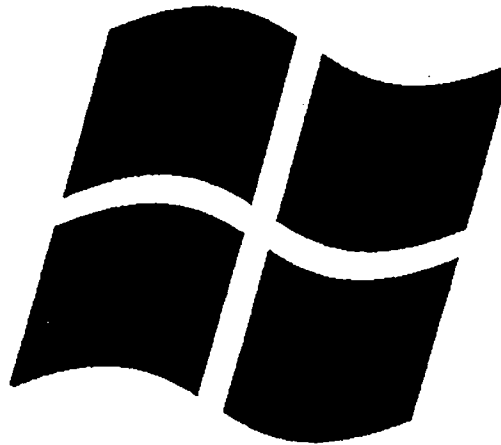
Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 2,744,843

United States Patent and Trademark Office

Registered July 29, 2003

**TRADEMARK  
PRINCIPAL REGISTER**



MICROSOFT CORPORATION (WASHINGTON CORPORATION)  
ONE MICROSOFT WAY  
REDMOND, WA 980526399

FOR: COMPUTER SOFTWARE, NAMELY, OPERATING SYSTEM PROGRAMS AND UTILITIES, WORD PROCESSING PROGRAMS, ADDRESS BOOK PROGRAMS, CALCULATOR PROGRAMS, TERMINAL EMULATION PROGRAMS, PROGRAMS FOR DOWNLOADING AND PLAYING AUDIO AND VIDEO, PROGRAMS FOR MANAGING COMPUTER POWER SUPPLIES, PROGRAMS FOR USE IN TRANSMITTING DATA BETWEEN COMPUTERS AND OTHER ELECTRONIC DEVICES, COMPUTER MAINTENANCE PROGRAMS, PROGRAMS FOR PROVIDING ENHANCED SPECIAL EFFECTS WHILE RUNNING GAME PROGRAMS, PROGRAMS FOR USE IN ACCESSING AND PLAYING CDS AND DVDS, BROWSER PROGRAMS, ACCESSIBILITY PROGRAMS TO MAKE COMPUTERS MORE USEFUL FOR PERSONS WITH DISABILITIES; PAINT PROGRAMS, NAMELY, COMPUTER SOFTWARE FOR USE IN CREATING, EDITING AND COLORING DRAWINGS; ELECTRONIC MAIL PROGRAMS; PROGRAMS FOR ELECTRONIC CONFERENCING; COMPUTER SOFTWARE FOR PLAYING VIDEO AND ELECTRONIC GAMES AND COMPUTER GAMES; USER MANUALS THEREFOR SOLD AS A UNIT THEREWITH; COMPUTERS; COMPUTER HARDWARE; AND FULL LINE OF COMPUTER APPLICATION PROGRAMS; COMPUTER PERIPHERALS; COMPU-

TER MICE AND POINTING DEVICES; HAND HELD COMPUTERS; DVD PLAYERS; DIGITAL CELLULAR PHONES; BLANK SMART CARDS, NAMELY, ENCODED ELECTRONIC CHIP CARDS CONTAINING PROGRAMMING FOR VARIOUS BUSINESS AND TECHNICAL FUNCTIONS; COMMUNICATION SERVERS, AND COMPUTER APPLICATION PROGRAMS AND OPERATING SYSTEM PROGRAMS FOR USE THEREWITH; COMPUTER PROGRAMS FOR MANAGING COMMUNICATIONS AND DATA EXCHANGE BETWEEN COMPUTERS AND ELECTRONIC DEVICES; VIDEO GAME MACHINES FOR USE WITH TELEVISIONS AND COMPUTERS, AND OPERATING SYSTEM SOFTWARE FOR USE THEREWITH; OPERATING SYSTEM SOFTWARE FOR USE IN PLAYING ELECTRONIC GAMES; COMPUTER HARDWARE AND PERIPHERALS; COMPUTER KEYBOARDS; COMPUTER AND VIDEO GAME JOYSTICKS; VIDEO GAME INTERACTIVE CONTROL FLOOR PADS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 3-26-2001; IN COMMERCE 3-26-2001.

OWNER OF U.S. REG. NOS. 1,815,350, 1,816,354, AND OTHERS.

THE MARK CONSISTS OF A FLAG DESIGN. THE UPPER LEFT PORTION OF THE FLAG IS RED, THE LOWER LEFT PORTION IS BLUE, THE UPPER RIGHT PORTION IS GREEN, AND THE LOWER RIGHT PORTION IS YELLOW. COLOR IS CLAIMED AS PART OF THE MARK.